

STATE OF SOUTH DAKOTA)
:SS
COUNTY OF LAKE)

IN CIRCUIT COURT
THIRD JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,

Plaintiff,
vs.

JOSEPH MICHAEL SCHMITZ,

Defendant.

CRI 16-0093

**AFFIDAVIT OF MICHAEL S. VERLEY IN
SUPPORT OF
MOTION TO RELEASE PROPERTY**

STATE OF SOUTH DAKOTA)
: SS:
COUNTY OF MINNEHAHA)

Affiant, being duly sworn, states as follows:

- 1) My name is Michael Verley, and I own 6233 N. Lakeside Dr., located in Lake County, South Dakota.
- 2) The above-named Defendant, Joseph Michael Schmitz, was my tenant and living at 6233 N. Lakeside Drive in April, 2016 when he was arrested for the death of his finance, Corina Booth.
- 3) This property has been sealed at the direction of law enforcement since April 27, 2016.
- 4) From this arrest and continued securing of the property, I have lost rental income and lost the ability to use the home as equity, causing me financial harm, resulting in me being a victim of this alleged crime under S.D. Const. art. VI, §29.
- 5) While my victim rights shall be afforded at the time of victimization, I formally request all victims' rights be afforded to me pursuant to South Dakota Attorney General Opinion No. 16-02.
- 6) I understand a hearing is being held on this case on March 2, 2017. I understand the State will making a Motion to Release this property. I ask for the Court to take this Affidavit into consideration in support of the State's Motion to Release property pursuant to S.D.C.L. 23A-37-8.
- 7) I have cooperated fully with law enforcement to aid the criminal justice system by continually providing law enforcement and defense counsel access to the property to the best of my ability. While the property is secured, I have only been able to use the utility room, the outside grounds and the detached garage.

- 8) I have not been able to use the property as intended which resulted in a collective temporary taking by the City of Madison, Lake County, and the State of South Dakota in violation of my property and victim's rights granted by the United States and South Dakota Constitutions.
- 9) Defendant Schmitz and I had an oral agreement where Defendant was going to rent 6233 N. Lakeside Dr., from May 1, 2016 through May 1, 2017 for \$30,000. We came to this agreement in April of 2017.
- 10) Defendant Schmitz never paid the agreed upon amount of rent after his arrest.
- 11) A portion of this lost rental income has been covered by my insurance company, though this insurance coverage will end on April 27, 2017 (one year after the arrest). After April 27, 2017, the property can neither be used as intended by me nor rented in any manner should this property remain secured by law enforcement without any income in any manner.
- 12) While this property has remained sealed I have not been able to use the property as equity in other potential transactions, losing out of other investment opportunities.
- 13) Should the property remain sealed after April 27, 2016, I will be expected to pay full property taxes on the property with only limited use available to me.
- 14) From discussions with my insurance company, it is my understanding that the residence could be considered "abandoned" and unable to be insured if it remains secured. If considered abandoned then vandalism or water breaks (which occurred in December of 2016) are not covered by insurance. No other insurance is available, and the City of Madison, Lake County nor the State of South Dakota has not indicated they would cover any losses normally covered by insurance should this property remain sealed.
- 15) Should this property be unsealed and pursuant to S.D.C.L. 23A-37-8(3), I will not sell or transfer any rights to this property to any other person, and will continue to cooperate with law enforcement and the Court should law enforcement or the Court desire access to the property for any reason.
- 16) Should this property be unsealed and pursuant to S.D.C.L. 23A-37-8(3), I promise to not make any structural changes to the residence. I will not change the inside of the residence in any manner which would cause the residence to be different than it was on the date of the incident, provided the case proceed in a reasonable time frame in accordance with S.D. Const. art. VI. §29, cl. 15.
- 17) The residence contains belongings to both the Defendant and victim.
- 18) It is my understanding that the family of Corinna Booth desire the victim's belongings and family photos be returned to them.
- 19) Should the property be unsealed, I would like to be able to use the property for my own use. Pursuant to S.D. Const. art. VI, §29, cl. 13, I would seek permission to have any property that does not belong to me disposed of pursuant to the South Dakota Codified

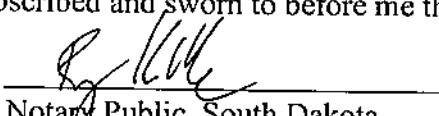
laws governing the disposal of the renter's property.

Dated this 16 day of February, 2017.



Michael Verley

Subscribed and sworn to before me this 16 day of February, 2017.



Notary Public, South Dakota

My Commission Expires:

7/7/18

